

### **Remarks**

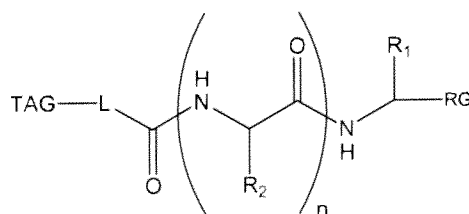
By the present communication, claim 1 is amended to define Applicants' invention with greater particularity. No new matter is introduced by the subject amendments as the amended claim language is fully supported by the specification and original claims. See, for example, paragraphs [0053] and [0054] of Applicants' specification. Upon entry of the amendments submitted herewith, claims 1-19 will remain pending, with claims 1, 7 and 8 under active prosecution, and claims 2-6 and 9-19 withdrawn from consideration, subject to a request for rejoinder thereof.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented in the **Listing of Claims** starting on page 2, with an appropriate defined status identifier.

The indication that claims 7 and 8 appear to be free of the prior art is acknowledged with appreciation. In view of the allowability of at least claims 7 and 8, it is respectfully submitted that at least claims 18 and 19 (which depend from claims 7 and 8, respectively) should be rejoined.

The rejection of claim 1 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement, is respectfully traversed. Applicants respectfully disagree with the Examiner's assertion that "[t]he claim(s) contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention." (See the last 4 lines at page 3 of the Office Action).

Specifically, Applicant respectfully disagree with the Examiner's assertion that "[t]he possible structural variations are limitless to any class of Markush where nearly every position is variant and a common core structure is not present." (See the sentence bridging pages 6-7 of the Office Action). Contrary to the Examiner's assertion, the claim provides a core structure comprising 1, 2, 3 or 4 amino acid units, with a defined reactive group (RG) at one end thereof, and a detectable label (TAG) at the other end thereof, as follows:



wherein  $n = 1, 2, 3$  or  $4$ .

Each of the variables associated with the core of the molecule, i.e.,  $R_1$ ,  $R_2$  and  $L$ , are defined structurally, and each of the peripheral variables (i.e., TAG and RG) are defined less specifically. No further definition is required for the peripheral variables as one of skill in the art has been given more than enough guidance as to what may be employed as a suitable detectable label (for TAG) and as a suitable reactive group (for RG).

For example, the Examiner's attention is specifically directed to claim 3, where  $R_1$  and  $R_2$  are defined with even greater specificity than in claim 1. To the extent there may remain any issues with respect to the support for the scope of  $R_1$  and  $R_2$  in claim 1, there can be no such question about the reduced number of variations contemplated for  $R_1$  and  $R_2$  by claim 3. Since, as discussed below, no prior art has been properly applied to claim 1, it is respectfully requested that claim 3 be rejoined and the search expanded to include consideration of the variables contemplated by claim 3.

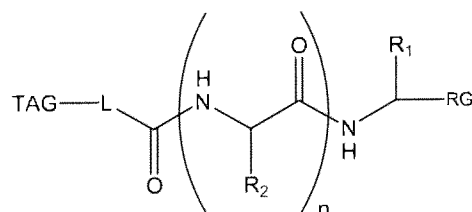
The Examiner's attention is also directed to claims 4 and 5, where RG is defined with even greater specificity than in claim 1. To the extent there may remain any issues with respect to the support for the scope of RG in claim 1, there can be no such question about the reduced number of variations contemplated for RG by claims 4 and 5. Since, as discussed below, no prior art has been properly applied to claim 1, it is respectfully requested that claims 4 and 5 be rejoined and the search expanded to include consideration of the variables contemplated by claims 4 and 5.

The Examiner's attention is also directed to claim 6, where TAG is defined with even greater specificity than in claim 1. To the extent there may remain any issues with respect to the support for the scope of TAG in claim 1, there can be no such question about the reduced number

of variations contemplated for TAG by claim 6. Since, as discussed below, no prior art has been properly applied to claim 1, it is respectfully requested that claim 6 be rejoined and the search expanded to include consideration of the variables contemplated by claim 6.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph are respectfully requested.

The rejection of claim 1 under 35 U.S.C. § 102(b) as allegedly being anticipated by Lynch et al., US Patent No. 6,207,397, is respectfully traversed. Applicants' invention, as defined by claim 1, distinguishes over Lynch et al. by requiring a core structure comprising 1, 2, 3 or 4 amino acid units, with a defined reactive group (RG) at one end thereof, and a detectable label (TAG) at the other end thereof, as follows:



wherein  $n = 1, 2, 3$  or  $4$ .

Each of the variables associated with the core of the molecule, i.e.,  $\text{R}_1$ ,  $\text{R}_2$  and  $\text{L}$ , are defined structurally, and each of the peripheral variables (i.e., TAG and RG) are defined less specifically.

Lynch et al. do not disclose or suggest such compounds. Specifically, Lynch et al. do not contemplate the presence of a reactive group which comprises a leaving group (LG) that is lost upon formation of a covalent bond between the ABP and a target enzyme. Instead, the “reactive amine group” of Lynch et al. is merely a free amine group which would not be lost upon reaction of the Lynch et al. compound with a target enzyme. Therefore, the Lynch et al. compound is not capable of undergoing the same chemical transformations as are possible with invention compounds.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) are respectfully requested.

**Conclusion**

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. In the event that any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

Date: 4/7/09

FOLEY & LARDNER LLP  
Customer Number 30542  
Telephone: 858-847-6711  
Facsimile: 858-792-6773

By 

Stephen E. Reiter  
Registration No. 31,192  
Attorney for Applicant